



In the  
Indiana Supreme Court

IN THE MATTER OF THE )  
 )  
 ) Case No. 01S00-0612-MS-485  
 )  
 ) APPROVAL OF LOCAL RULES )  
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 )  
 )  
 )  
 ) FOR ADAMS COUNTY )

## ORDER APPROVING AMENDED LOCAL RULES

The judges of the Adams Circuit and Superior Courts request the approval of amended local rules for special judge selection in accordance with Ind. Trial Rule 79. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Adams Circuit and Superior Courts, this Court finds that notwithstanding the requirement of Ind. Trial Rule 79(H) regarding selection of special judges from within administrative districts, the proposed rule amendments, LR01-TR79-01, LR01-TR79-02, LR01-TR79-03 and LR01-TR79-04, comply with the accessibility considerations of Ind. Trial Rule 79(J), and, accordingly, should be approved effective thirty (30) days after the rules have been posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

IT IS, THEREFORE, ORDERED by this Court that Local Rules LR01-TR79-01, LR01-TR79-02, LR01-TR79-03 and LR01-TR79-04 for Adams Circuit and Superior Courts, set forth as an attachment to this Order, are approved effective thirty (30) days after the rules have been posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. Frederick A. Schurger, Adams Circuit Court, P.O. Box 610, Decatur, IN 46733-0610; the Hon. James A. Heimann, Adams Superior Court, P.O. Box 569, Decatur, IN 46733-0569, and to the Clerk of the Adams Circuit and Superior Courts.

The Clerk of the Adams Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 30<sup>th</sup> day of November, 2006.

RT Shepard  
Randall T. Shepard  
Chief Justice of Indiana

ORDER AMENDING LOCAL RULES OF PRACTICE  
FOR THE CIRCUIT AND SUPERIOR COURTS  
26<sup>TH</sup> JUDICIAL CIRCUIT, ADAMS COUNTY, INDIANA

Pursuant to the requirements of Administrative Rule 15 and Trial Rule 81 of the Indiana Rules of Trial Procedure IT IS HEREBY ORDERED that the following Local Rules of Practice in the Circuit and Superior Courts of the 26<sup>th</sup> Judicial Circuit, Adams County, Indiana, regarding Assignment of Criminal Cases, Change of Venue and Related Matters and Local Caseload Rule be and the same is hereby amended herein.

The Courts find that pursuant to Trial Rule 81(D) good cause exists to deviate from the schedule established by the Division of State Court Administration for the adoption of the local rule amendment. These Local Rules regarding Local Caseload Rule and the Assignment of Criminal Cases, Change of Venue and Related Matters shall be effective July 31, 2006 or when approved by the Indiana Supreme Court if required.

The Clerk of the Adams Circuit and Superior Courts shall post these rules in their office and on their website, if any, for a period of thirty (30) days commencing immediately. Local Rule regarding Assignment of Criminal Cases, Change of Venue and Related Matters and the Local Caseload Rule previously adopted are repealed.

ORDERED THIS 25<sup>th</sup> day of September, 2006.

S/James A. Heimann  
James A. Heimann, Judge  
Adams Superior Court

S/Frederick A. Schurger  
Frederick A. Schurger, Judge  
Adams Circuit Court

STATE OF INDIANA

IN THE ADAMS CIRCUIT COURT  
CAUSE NO. 01C01-0601-CB-0001

COUNTY OF ADAMS SS:

IN THE ADAMS SUPERIOR COURT  
CAUSE NO. 01D01-0601-CB-0001

AMENDED  
ADAMS COUNTY CASELOAD RULE

WHEREAS, on July 16, 1999, the Supreme Court of Indiana issued an Order for Development of Local Caseload Plan.

WHEREAS, on September 2, 1999, the majority of Judges in District 3 met in an effort to comply with the Supreme Court's Order and to provide for an efficient method of resolving legal disputes arising in the District 3 counties.

WHEREAS, the undersigned Judges agreed to adopt a Uniform Local Rule complying with the District 3 Caseload Distribution Rule made September 2, 1999.

WHEREAS, the Adams Circuit Court currently has a newly appointed judge with the normal likelihood of unusual statistics following such appointment.

WHEREAS, the underutilized courts near or adjoining Adams County include Jay Circuit and Superior Court and Blackford County Court (which are in administrative District 6) but because of travel distance are among the most logical choices for Special Judge appointment of cases from Adams County courts.

NOW THEREFORE, the following Local Rules are adopted:

LR01-TR79-01 DEFINITIONS

1.1 "Over-utilized counties" – Counties in which, according to the most recent Weighted Caseload Measure (WCM), the judicial officers are being utilized at greater than the statewide average.

1.2 "Under-utilized counties" – Counties in which, according to the most recent WCM, the judicial officers are being utilized at more than twenty-five (25) percentage points below the statewide average.

1.3 "Other counties" – Counties in which, according to the most recent WCM, the judicial officers are being utilized at the statewide average, or within twenty-five (25) percentage points below the statewide average.

LR01-TR79-02

2.1 Whenever selection of a special judge is required under Trial Rule 76 or Trial Rule 79(H), this shall be the exclusive method for selection of special judges.

2.2 In an "Over-Utilized County", special judges shall be selected exclusively from a list of judicial officers presiding in courts in "Under-Utilized Counties." To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges in "Over-Utilized Counties", based upon the 1998 WCM, shall be as follows:

A. Special judges serving Allen County shall be selected from the nine (9) judicial officers sitting in Adams, LaGrange, Steuben and Wells counties;

B. Special judges serving DeKalb county shall be selected from the five (5) judicial officers sitting in LaGrange and Steuben counties;

C. Special judges serving Huntington County shall be selected from the four (4) judicial officers sitting in Adams and Wells counties.

2.3 In an "Under-Utilized County", special judges shall be selected exclusively from a list of judicial officers sitting in other "Under-Utilized Counties". To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges in "Under-Utilized Counties", based upon the 1998 WCM, shall be as follows:

A. Special judges serving Adams County shall be selected from the other judicial officer sitting in Adams County and the two (2) judicial officers sitting in Wells County;

B. Special judges serving LaGrange County shall be selected from the other judicial officer sitting in LaGrange County and the three (3) judicial officers sitting in Steuben County.

C. Special judges serving Steuben County shall be selected from the other judicial officers sitting in Steuben County and the two (2) judicial officers sitting in LaGrange County;

D. Special judges serving Wells County shall be selected from the other judicial officer sitting in Wells County and the two (2) judicial officers sitting in Adams County.

2.4 In an "Other County", special judges will be selected from counties which are similarly situated. To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges, based upon the 1998 WCM, shall be as follows:

A. Special judges serving Noble County shall be selected from the other judicial officers sitting in Noble County and the two (2) judicial officers sitting in Whitley County;

B. Special judges serving Whitley County shall be selected from the other judicial officer sitting in Whitley County and the three (3) judicial officers sitting in Noble County.

2.5 Each judge in every court of District 3 shall maintain a list of judges available to serve as special judge in his or her court. The list shall remain confidential to the judge and his or her designated staff. The method for selection of a special judge from the list shall be sequential, that is, from top to bottom, until each judicial officer has been selected. No judicial officer appearing on the list shall be selected more than once until all judicial officers have been selected.

2.6 The special judge selected hereunder, shall have the sole discretion to transfer the proceeding under Trial Rule 79(M).

2.7 Each special judge, who receives a case hereunder, shall maintain a statistical record of the number, case type and disposition of each case received to quantify the additional caseload and shall report same to the Division of State Court Administration on a quarterly basis.

2.8 Each judge, who assigns a special judge hereunder, shall maintain a statistical record of the number and case type of each case assigned and shall report same to the Division of State Court Administration on a quarterly basis.

2.9 This rule applies only to selection of special judges in civil matters. It does not apply to the selection of special judges in criminal and juvenile matters.

2.10 The judges in District 3 shall meet on or before May 1 of each year to review the WCM from the previous year, shall meet during the month of September in each year to review the impact of this rule and, no later than October 1 of each year, shall adopt a rule for the ensuing year.

2.11 All previous local rules adopted by the judge in District 3 regarding the selection of special judges in civil matters are repealed to the extent that they are inconsistent with this Rule.

2.12 This Rule shall be effective July 31, 2006 or upon approval by the Indiana Supreme Court if required.

LR01-TR79-03

3.1 In the event of the recusal or disqualification of the presiding Adams Circuit Court Judge, for decedent estate matters, the judge of the Adams Superior Court shall serve as special judge.

3.2 All decedent estate cases shall be filed in the Adams Circuit Court.

3.3 In the event of the recusal or disqualification of the presiding Adams Circuit Court Judge a panel of judges consisting of the regular judge of the Jay Circuit Court, the regular judge of the Jay Superior Court, the regular judge of the Blackford Superior Court, the regular judge of the Wells Superior Court and the regular judge of the Wells Circuit Court is created. Selection shall be done pursuant to TR 79(H). The method of selection from the list of special judges shall be that the Judge of the Adams Circuit Court shall maintain the list of the panel and upon such recusal or disqualification, going from top to bottom, select the special judge until each judge on the list has been selected once, before any one judge is selected twice, et cetera; provided however, that in the event one defendant has two or more cases, all such cases shall be assigned to the special judge first selected.. This list shall remain confidential to the judge and designated staff. The special judge selected thereunder, shall have the sole discretion to transfer the proceeding under Trial Rule 79(M).

3.4 The judges of Adams County shall meet at least annually to review the impact of these rules and in particular the balancing of caseloads between the Courts.

3.5 The Local Rules 3.1 through 3.5 shall be forwarded for review by the Indiana Supreme Court and upon approval of the Indiana Supreme Court these Rules shall become effective upon such approval.

ADAMS COUNTY  
RULES OF COURT

LR01-TR79-04

This rule shall apply to the reassignment of cases and the selection of a senior judge in juvenile, paternity and domestic relation cases where there is an order of disqualification or recusal entered in the case in the Adams Circuit Court

After September 13, 1999 whenever the Judge of the Adams Circuit Court has a conflict of interest in any juvenile, paternity or domestic relations case which requires him to recuse himself because of prior contact with the case as Deputy Prosecuting Attorney, the case shall be assigned to Senior Judge Vern E. Sheldon for all further proceedings.

Senior Judge Vern E. Sheldon shall accept jurisdiction under the provisions of this rule unless disqualified under the Code of Judicial Conduct or excused from service by the Indiana Supreme Court. The reassignment of such case shall be entered in the Chronological Case Summary of the case. An oath or special order accepting jurisdiction shall not be required. Senior Judge Vern E. Sheldon shall retain jurisdiction of the case for all future proceedings unless a specific statute or rule provides to the contrary or the senior judge is unavailable by reason of death, sickness, absence, or unwillingness to serve. If further reassignment is required because of the retirement of Senior Judge Vern E. Sheldon and if a Senior Judge has been appointed to the Adams Circuit Court, such reassignment shall be to such successor Senior Judge. If further reassignment is required or the selection of a successor special judge or senior judge it shall be in the same manner as set forth in the rules of civil procedure.

DATED and ORDERED:     September 25, 2006

S/James A. Heimann  
James A. Heimann, Judge  
Adams Superior Court

S/Frederick A. Schurger  
Frederick A. Schurger  
Adams Circuit Court